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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[28 February 1997]

GE.97-10888 (E)

1. The International Federation of Human Rights Leagues (FIDH) and its partner organization Human Rights In China (HRIC) are extremely concerned about the ongoing massive and systematic violations of human rights in the People's Republic of China. Despite the encouraging signal sent by some changes made to the Criminal Procedure Law, in practical terms there was no improvement in the human rights situation in 1996. The economic liberalization and reform have not translated into an institutional and political reform. Those who in China peacefully call for these reforms and seek to achieve real social stability based on democratic dialogue, respect for human rights and the accountability of the Government are the most visible, and therefore the most exposed, in the Chinese society. The treatment of the dissident community is a barometer for the authorities' attitudes towards human rights for the Chinese people as a whole, and reveals that guarantees for basic rights in Chinese society are virtually non-existent.

2. In spite of constitutional guarantees, the rights to freedom of opinion and expression are routinely restricted. In the last few years several journalists, including Gao Yu, have been sentenced to prison terms for "leaking State secrets". For reporting policy decisions that had already been mentioned in the Hong Kong press, Gao Yu received a six-year sentence. The Law on the Preservation of State Secrets confers the authority to classify information very broadly, without defining what is considered "harmful to the security of the State". This law is used to repress individuals who do not have access to State secrets but who are involved in the democracy and human rights movement, such as Li Hai, sentenced to nine years' imprisonment in 1996 for collecting information about prisoners. Furthermore, individuals who petition the Government are systematically harassed or detained. Liu Xiaobo was sentenced to re-education through labour after issuing an open letter asking the Government to respect religious freedom, freedom of speech and the press and the right to form political parties. Also sent to re-education through labour in 1996 were Fu Guoyong, Chen Longde and Wang Donghai, who together wrote a petition demanding the reassessment of the 1989 democracy movement. The treatment of such activists is an indication of the ability of people throughout the country to speak about the violations of human rights and the social problems engendered by the rapid economic changes. FIDH and HRIC are also extremely concerned about the Chinese authorities' announced intentions to repeal or amend laws to come into force after July 1997 in the new Hong Kong Special Administrative Region with the effect of restricting the freedoms of association and assembly and reducing protection for human rights.

3. Although the revised Criminal Procedure Law contains some encouraging measures, regarding such matters as the right to counsel, a number of reforms long pursued by Chinese legal scholars themselves have yet to be enacted. They concern chiefly a clearer definition of presumption of innocence, the procurement and use of evidence and the right to appeal. The trials of prominent dissidents in 1996 offer a clear illustration of political manipulation of judicial procedures. Former student leader Wang Dan was sentenced to 11 years after a three-hour-long trial closed to the public at which judges totally ignored defence arguments and repeated requests from him and his lawyers for additional testimony to be presented. He was found guilty of "conspiring to subvert the Government" when all he did was write articles

advocating for democracy and human rights. FIDH and HRIC firmly believe that Wang Dan's trial was unfair, did not give him the opportunity to have his case considered impartially, and that the verdict had been decided in advance. Li Hai was tried behind closed doors in May 1996 after one year in incommunicado detention in a secret location. The verdict was announced seven months after the trial. Li Hai was sentenced to nine years in prison for "prying into and collecting State secrets", namely "information about people sentenced for criminal activities during the June fourth 1989 period" which he had obtained mainly through visiting prisoners' families.

4. Denial of the right to a fair trial is particularly obvious in re-education through labour, which was judged "inherently arbitrary" by the Working Group on Arbitrary Detention in 1993. Since then, however, this form of administrative detention is still being widely used. Ordered by commissions under the authority of the police, re-education through labour is imposed for one to three years (extendable to four years in case of escape attempts or bad behaviour) on those who commit minor offences "not warranting prosecution" and, extensively, on dissidents. People sent to re-education through labour are denied the right to counsel and to fair trial. Although they have a legal right to appeal their administrative sentences, few of them do and in most cases, so far, the courts uphold the sentences. Labour and human rights activist Liu Nianchun, who was sentenced to three years of re-education through labour in July 1996, had his appeal hearing last September. However, he was not notified of the court's decision to reject his until December 1996. In addition to those sentenced to re-education through labour, inmates in all detention facilities are systematically requested to perform forced labour, often from 11 to 16 hours a day.

5. FIDH is deeply concerned about the lack of medical treatment in detention facilities and the authorities' refusal to give inmates and their relatives access to their medical files. This, according to the Special Rapporteur on torture, constitutes a form of torture or cruel and degrading treatment. Nobel Peace Prize nominee Wei Jingsheng, who was sentenced to 14 years' imprisonment in December 1995, suffers from angina pectoris, myocardial infarction and high blood pressure, for which he is not receiving proper treatment. A former secretary of ousted Communist Party Chief Zhao Ziyang, Bao Tong, was placed under house arrest immediately after his release from seven years in prison. He and his family have been denied access to his medical files, and he has not been able to see a doctor since he left prison. He suffers from various ailments including a colon condition which may be cancerous and tumors in his thyroid gland. The condition of prisoners of conscience held in mental hospitals, such as Wang Wanxing, is a source of major concern for FIDH and HRIC.

6. Although China ratified the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in 1988, it still has not enacted legal provisions defining the crime of torture. According to official statistics, hundreds of complaints of torture are lodged each year. Inmates in detention centres report that in many places the use of torture is systematic. Inmates are often beaten by cellmates with the connivance of the guards. Unable to withstand the torture and bad conditions in his re-education centre, Chen Longde jumped out of a window, severely injuring

himself. One police officer admitted to Chen's father that he and a group of police officers had beaten Chen Longde with electric batons and clubs, also encouraging other inmates to do the same.

7. Freedom of movement is restricted, as in the case of Wei Jingsheng's former assistant, Tong Yi, who had her passport application turned down by the police, thus preventing her from leaving China. Conversely, blacklists of Chinese nationals living in exile and involved in the human rights movement are maintained, and these people are generally denied entry into China. In 1996 Hong Kong activists and politicians were prevented from travelling to China to present their views on developments in the territory. Inside China, human rights and democracy activists are systematically prevented from travelling freely. In periods such as around the anniversary of the June Fourth Massacre or during visits of foreign dignitaries, they are forbidden from leaving their places of residence or sent on enforced trips. For example, Chu Hailan, wife of Liu Nianchun, was forcibly sent from Beijing to the northern Heilongjiang province, where her husband is detained, to prevent her from having any contact with the visiting United States Secretary of State.

8. Freedom of religion and peaceful religious activities were further restricted by 1994 Government regulations. In 1996 hundreds of unregistered temples and "house churches" were closed or destroyed. In Tibet, the Government's ban on private possession and display of the image of the Dalai Lama has stirred strong resistance. Monks who refuse to denounce the Dalai Lama face expulsion from their monasteries. In many instances, religious activists are detained, such as Bishop Zeng Jingmu, 76, and Christian activist Xiao Biguang, both of whom were sentenced to three years of re-education through labour in 1996. Zeng has already spent 23 years in detention. FIDH and HRIC were also surprised to learn that although China invited the Special Rapporteur on religious intolerance in 1994, Tibetan monk Yulo Dawa Tsering has been under house arrest since his meeting with the Rapporteur.

9. Although the majority of the rights enshrined in the Universal Declaration of Human Rights are guaranteed by the Chinese Constitution, there is a wide and documented gap between domestic laws and their implementation, leading to massive and systematic violations of human rights. In this period of political transition, FIDH and HRIC call on the Government of the People's Republic of China to declare a general amnesty for all prisoners of conscience. FIDH and HRIC further recommend that the members of the Commission enact a resclution on the human rights situation in China which addresses the above concerns and requests that the United Nations Secretary General submit a report on the human rights situation in China to the next session of the Commission on Human Rights.

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COMMISSION ON HUMAN RIGHTS
Fifty-third session
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QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[28 February 1997]

GE.97-10819 (E)

1. In this submission, the International Federation of Human Rights Leagues (FIDH) and the Palestinian Centre for Human Rights wish to discuss Israel's violations of standards of international human rights law in respect of the Palestinian people in the Occupied Palestinian Territories (OPTs). (The Palestinian Centre for Human Rights is an independent legal agency dedicated to protecting and promoting human rights, respect for the rule of law, and democratic principles in the Occupied Palestinian Territories. Established in April 1995 by a group of Palestinian lawyers and human rights activists in the Gaza Strip, the Centre is an affiliate of the International Commission of Jurists and partner to the FIDH. The Centre is a 1996 recipient of the Republic of France's Human Rights Award, "Liberté, Egalité, Fraternité").

2. The political process towards the attainment of peace in the region has failed to ensure adequate respect for the human rights of the Palestinian people. The political agreements have not ended Israel's occupation of the Gaza Strip and West Bank, including East Jerusalem; Israel has retained overall control of the OPTs and direct internal control of 42 per cent of the Gaza Strip and 97 per cent of the West Bank. Consequently, the Fourth Geneva Convention remains in force and its provisions continue to protect the rights of the Palestinian people and to define the legality of Israel's activities as an Occupying Power and as a High Contracting Party.

3. The consequences of the deficiencies of the political process were witnessed in the September 1996 clashes between Israeli armed forces and Palestinians. These saw the highest level of force used by Israeli forces and the greatest number of injuries and deaths in the OPTs since the 1967 war. Israel employed tanks and Huey Cobra attack helicopters against unarmed Palestinian civilians; 64 Palestinians and 15 Israeli soldiers were killed and an estimated 1,600 Palestinians were injured.

4. The causal factors of the clashes were, inter alia, the imposition of closures; non-release of Palestinian prisoners; maintenance and expansion of settlements; and changing the status quo in Jerusalem. These issues are central to the human rights of the Palestinian people and they are being ignored, supposedly for the sake of the political process. The FIDH and the Palestinian Centre for Human Rights believe that the violence of September 1996 shows that the failure to make the human rights of the Palestinian people a priority is to the detriment of a peaceful outcome to the political process.

Closure of the West Bank and Gaza Strip

5. Throughout most of 1996 Israel imposed a very severe closure on the OPTs, in response to four suicide bombings carried out by Islamic groups in Israel in February and March 1996. Closures are enforced by Israeli military authorities at the border between Israel and the OPTs, facilitating control over movement of goods and people. The imposition of closures has become Israel's prime mechanism of control since redeployment. Between May 1994 and 25 February 1996, Israel totally closed the Gaza Strip for over 300 days and for 200 days between 25 February 1996 and September 1996.

6. The closures prevent freedom of movement. Nine Palestinians died during the first 10 days of the total closure imposed in February 1996 because they

were denied access to vital medical treatment not available in Gaza; 22,000 Palestinians who migrate daily to work in Israel are prevented from doing so; 1,200 Palestinian students from the Gaza Strip are prevented from reaching their universities and colleges in the West Bank; Palestinian families are separated and family visits to Palestinian prisoners held illegally in Israeli prisons are restricted.

7. The closure enforces a separation between the OPTs, in violation of the Agreements, which require the "West Bank and Gaza Strip to be viewed as a single territorial unit whose integrity will be preserved during the interim period", and which also require Israel to provide safe passages between the West Bank and Gaza Strip to facilitate this movement, which it has failed to do. The 1996 total closures caused the near collapse of the economies of the West Bank and Gaza Strip, causing severe levels of poverty. Unemployment rates reached 70 per cent in the Gaza Strip and 55 per cent in the West Bank; GNP dropped by 35 per cent and inflation hovered at 18 per cent. Israeli policy throughout the occupation has been to maintain the Gaza Strip in a state of total dependency; a relationship which has unfortunately been reinforced by the Agreements, and which makes the effects of the closure more resonant. Economic independence for the OPTs is inextricably linked with human rights and self-determination. Article 1 (2) of the International Covenant on Economic Social and Cultural Rights provides: "In no case may a people be deprived of its own means of subsistence." During the total closures Israel prevented the passage of humanitarian aid. While there were shortages of basic foodstuffs and medical supplies in Gaza, Israel prevented the importation of these vital supplies, in violation of the Fourth Geneva Convention which requires Israel as an Occupying Power to ensure that the Palestinian population has adequate supplies of food and medicine, and as a High Contracting Party to allow free passage of consignments of necessary food and medicine. The total closures imposed in 1996 are reprisals and constitute the collective punishment of the civilian population, in grave breach of the Fourth Geneva Convention.

8. The total closure has been eased, but it is a mechanism that remains in place and continues to be a primary means of control over the OPTs.

Imprisonment of Palestinian prisoners in Israel

9. Upon redeployment in May 1994, Israel transferred Palestinian prisoners held in the OPTs to prisons in Israel, in violation of article 76 of the Fourth Geneva Convention. Israel has delayed the release of these prisoners in violation of its commitment to do so in the Agreements.

10. Palestinians continue to be arrested at border-crossing points and around 250 a week are brought before Israel's military courts. Israel has legitimized the use of torture during the interrogation of Palestinian detainees and is possibly the only State in the world to do so.

Expansion of Jewish settlements in the Occupied Territories

11. In violation of the Fourth Geneva Convention, which prohibits the transfer of the Occupying Power's own civilian population into occupied territory, Israel places Jewish settlements amongst the Palestinian population

in the OPTs, in heavily fortified areas protected by Israeli armed forces. The building of settlements and their infrastructure entails the confiscation of thousands of dunams of land from Palestinian families; since 1993, over 80,000 dunams have been confiscated. The settlements are strategically placed to prevent the expansion of Palestinian towns, and are designed to further the cantonization of the OPTs and restrict freedom of movement.

12. Even though the parties to the Agreements have committed themselves not to take actions which change facts on the ground and prejudice the outcome of the final status negotiations, Israel has continued to expand the settlements. The number of settlers in the Gaza Strip and the West Bank (excluding Jerusalem) increased from 105,300 in 1992 to 146,000 by the end of May 1996.

Changing the status quo in Jerusalem

13. The postponement of discussions in the political process on the status of Jerusalem should not distract the international community from the fact that East Jerusalem is occupied Palestinian territory and Israel's activities in relation to it are subject to the Fourth Geneva Convention, which forbids the annexation of occupied territory by the occupying State. The consensus of international condemnation on Israel's activities in respect of East Jerusalem is reflected in several Security Council and General Assembly resolutions. It is necessary that this condemnation is reaffirmed in the context of the political process.

14. In violation of international law, Israel has altered the demographic and physical landscape of East Jerusalem to effect its absorption into Israel. Israel has created a Jewish majority in East Jerusalem, but it is also currently inhabited by around 170,000 Palestinians. The Israeli Government seeks to diminish the Arab population of East Jerusalem by restricting the construction of new housing in Arab areas and taking away their rights of residency in East Jerusalem. Land belonging to Palestinians in and around East Jerusalem has been confiscated and a band of Jewish settlements has been built between East Jerusalem and the rest of the West Bank to effect its isolation from the rest of the OPTs.

15. The decision to open the tunnel near al-Aqsa mosque on 23 September 1996 was widely labelled as provocative and irresponsible, and was the catalyst for violent clashes on 25, 26 and 27 September 1996 in the OPTs.

Appeal to the Commission

16. While the FIDH and the Palestinian Centre for Human Rights support all political efforts towards a peaceful outcome, they emphasize that the basis of all efforts should be international law and the protection of the human rights of the Palestinian people, which evidently continue to be violated in spite of the political process. If the issues discussed in this submission are not addressed and the human rights of the Palestinian people are not guaranteed, further violence is a distinct possibility.